Mr. Bernard Fensterwald
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Washington, D.C. 20006

9/19/76

Dear Bud,

As you wanted, I've gone over the Howard affidavit in your suit. I've used some of it in court. I think in a way that can help you. I have other notes I've made on it. Jim got Howard to admit they are only six months late on non-project cases. There is no basis for that one being a project case. There is nothing in his affidavit that means it has to have been or in fact was. We can't buy the transcripts now because we'd have to pay $1.50 a page. Once someone else has them made we'll get them and you'll be welcome to copies. I think you can use that of the 6th, when Smith was the witness and Jim did a good job on him; and of the evidentiary hearings of the 16th and 17th. On the 16th we had Howard and a different Cunningham, not Courtlandt. I testified on the 17th and I think you can use it. Jim can tell you better. In brief, I have two dozen MF FOIA JFK requests going back to I think 1968. I've made the "good faith" and "due diligence" record for all of you. I can make it even better than we were able to under the circumstances.

My only interest in going to your office on the 8th was to give you a chance to react to the letter you had received from me before then. You did not so I said nothing about it. There was nothing for me in the time I took. I was trying to be helpful to you. You are, I think, in a vulnerable position made more so by your newfound friend and associate, Mark.

Jim phoned me a week ago Friday after speaking to you. He relayed your request. I stopped everything and wrote you, then went into town to mail it because our outgoing weekend mail goes to Baltimore first and that post office has for years been the worst. If in the time since you have not seen fit to respond or react in any way, why did you ask this of me?

I have since learned that you were asked to do this. Why do you play these childish games with Jim and me? Do you not understand that I have other things I want to do and can't find time for?

As thieves go your associate Mark is one of the more accomplished ones. He is incapable of doing anything himself so he steals and masks his stealing. You need not added tar to that which is available.

If you have told him anything about my work of which I had to tell you as Ray's chief counsel I strongly encourage you to see to it that he never makes any use of it whatsoever. There is a limit to how much of this I'll take in silence. If you have not told him, fine. But Livingston has already blabbed what I did not tell him. Believe me or not, I'm telling you as I have before that your personal situation on this is not good and I have no interest in doing anything about it. If I am forced to, do not for a minute think I'm not capable of it. The thing to do is see to it that I'm not forced.

I hear that Mark, a lawyer, has interviewed Ray. Mark, your associate; Ray, your former client. And without, I'm sure, the consent of Ray's lawyer. I don't think the bar would like this. I do think that in time others will not. Ray does have other counsel for civil suits. I have broken off with him but I do hear from Jerry.

The situation is getting out of hand. If I have no choice I'll address it. It puts me in the position of doing something that is commercially acceptable.

The two top men on the House committee are raving maniacs on this subject. With the most wretched records, real nuts. And your associate Lane gives the Black Caucus as his work what he stole? Not only is it copyrighted but I cut it in a court record months ago. And it is my work plus that of a friend to whom I turned part of it over. Mark claims it as his and NBC claims it as Abby mann's and theirs. Great. Come to while you can.